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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,318	01/26/2004	Keith G. Lurie	016354-005212US	9412
20350	7590	02/24/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			DOSTER GREENE, DINNATIA JO	
		ART UNIT	PAPER NUMBER	
		3743		

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/765,318	LURIE, KEITH G.	
	Examiner Dinnatia Doster-Greene	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 December 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6,8-14 and 21-25 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-6, 8-14, 21-25 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

37 CFR 1.105 REQUIREMENT FOR INFORMATION

1. Applicant (or the assignee of this application if the assignee has undertaken the prosecution of the application) is required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.
2. There are numerous other co-pending applications and issued patents, which disclose and claim very similar and/or identical subject matter. In accordance with 37 CFR 1.105 and MPEP 704.11(a) subsection G, applicant (or the assignee) is respectfully requested to disclose all co-pending applications and related patents (please see the non-exhaustive list below of applications and issued patents that the USPTO believes may be related) and identify the specific claims of those applications and/or patents which may present double patenting issues with the instant application claims. This requirement is reasonably necessary to examination because, based on an initial review of the applications, there is a significant degree of overlap in claimed subject matter, thus requiring an analysis of commonality of claimed subject matter to determine patentability under 35 USC 101 double patenting and/or obviousness type double patenting. For example:
 3. a) **Claims 1 and 21 of the current application, 10/765,318, differ from Claim 1, and 24 of copending application, 10/426161,** in only the obvious variation that the current application applies a method and apparatus for the treatment of a modulating a

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person's autonomic function and a method for assisting a person in recovering from physical exertion; while the copending application applies a method and apparatus for the treatment of decreasing intracranial or intraocular pressure via decreasing a person's negative intrathoracic pressure. Regardless, both applications follow the same method of decreasing the patient's negative intrathoracic pressure.

4. Because the applicant (or the assignee) is presumably far more cognizant of the contents of the claims in these applications than any Office staff, and has access to the source documents by which such comparison could be done better than within the Office, it is reasonable to require the applicant to provide the information needed to determine the commonality among the claims.

5. Should applicant (or the assignee) believe that Double Patenting exists, then applicant (or the assignee) is invited to file Terminal Disclaimers and/or amend the currently pending claims in the interest of expediting the prosecution of the current application. Applicant (or the assignee) should note that a terminal disclaimer is effective to overcome an obvious type double patenting reject, but will not overcome a "same type" double patenting rejection under 35 U.S.C. § 101.

6. Non-exhaustive list of possible related co-pending applications and patents:

09/854,238	10/224,263
09/930,315	10/224,263
09/966,945	10/251,080
09/967,029	10/255,319
10/119,203	10/396,007
10/158,528	10/401,493

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10/410,229	5,827,893
10/426,161	5,919,210
10/460,558	5,984,909
10/660,366	6,001,085
10/660,462	6,029,667
10/765,318 Application in Question	6,062,219
10/796,875	6,078,834
10/920,678	6,155,257
11/034,996	6,224,562
11/051,345	6,234,985
11/127,055	6,277,107
11/127,993	6,312,399
5,316,907	6,425,393
5,423,772	6,459,933
5,454,779	6,463,327
5,549,581	6,486,206
5,551,420	6,526,973
5,588,422	6,587,726
5,618,665	6,604,523
5,643,231	6,656,166
5,645,522	6,776,156
5,692,498	6,863,656
5,722,963	6,935,336
5,730,122	6,938,618

7. This requirement is subject to the provisions of 37 CFR 1.134, 1.135 and 1.136 and has a shortened statutory period of 2 months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinnatia Doster-Greene whose telephone number is (571) 272-7143. The examiner can normally be reached on Monday thru Friday.

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9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Henry Bennett
Supervisory Patent Examiner
Group 3700

Acting Director TC 3708